

REMARKS

In the Office Action¹ mailed April 21, 2005, the Examiner withdrew non-elected claims 3-32, 34-48, and 50-52; rejected claims 1, 2, 33, and 49 under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,751,729 to Giniger et al. (“Giniger”); and provisionally rejected claims 1, 2, 33, and 49 under the judicially created doctrine of obviousness-type double patenting over claims 1-44 of co-pending U.S. Application No. 09/814,178.²

By this Amendment, Applicants amend claims 1, 2, 33, and 49 to improve form.

The Examiner rejected claims 1, 2, 33, and 49 under 35 U.S.C. § 102(e) as anticipated by Giniger. Applicants traverse this rejection.

Claim 1 recites a combination including, inter alia, “providing, at the at least one processor and through the base network, code and information for configuring the first processor to interface the base network at the received base address; executing, at the first processor, the provided code to configure the first processor based on the provided information such that the first processor interfaces the base network; and providing, by the at least one processor and through the base network to the first processor, information enabling at least one tunnel ... when the first and second processors each provide to the at least one processor a consent for enabling the at least one tunnel.”

The Examiner appears to suggest that Giniger at col. 15, lines 4-7 discloses the following recitation of claim 1: “providing, at the at least one processor and through the

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

² Applicants note that on page 6 of the Office Action, the obviousness-type double patenting rejection over U.S. Application No. 09/814,179 is incorrect. The rejection should read U.S. Application No. 09/814,178 as confirmed by (continued...)

base network, code and information for configuring the first processor to interface the base network at the received base address." Giniger col. 15, lines 4-7 reads as follows:

Once edge device 110 is in communication with management server 130, it receives **additional configuration information**, such as information related to routing and security policies from the management server,

Giniger, col. 15, lines 4-7 (emphasis added).

A careful reading of the above passage reveals that Giniger merely discloses that the management server provides configuration information related to routing and security policy. Nothing in the above passage suggests or discloses "providing, at the at least one processor and through the base network, code and information for configuring the first processor" as recited in claim 1. Because Giniger fails to provide code and information, Giniger fails to disclose at least the claim 1 step of "providing, at the at least one processor and through the base network, code and information for configuring the first processor to interface the base network at the received base address." Therefore, independent claim 1 and dependent claim 2, at least by reason of its dependency from claim 1, are allowable over Giniger, and the rejection of those claims under 35 U.S.C. §102(e) should be withdrawn.

Moreover, because Giniger fails to disclose "providing, at the at least one processor and through the base network, code and information for configuring the first processor," Giniger cannot possibly disclose the claim 1 step of "executing, at the first processor, the provided code to configure the first processor based on the provided information such that the first processor interfaces the base network." Therefore,

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Examiner Chen in a telephone interview on July 12, 2005. As such, the rejection on page 6 of the Office Action
(continued...)

independent claim 1 and dependent claim 2, at least by reason of its dependency from claim 1, are allowable over Giniger, and the rejection of those claims under 35 U.S.C. §102(e) should be withdrawn for this additional reason.

Because management server 130 commands each of the edge devices 110 to add a tunnel (col. 15, ll. 17-18) without the consent of the edge devices 110, Giniger also fails to disclose the following recitation of claim 1: “providing, by the at least one processor and through the base network to the first processor, information enabling at least one tunnel … when the first and second processors each provide to the at least one processor a consent for enabling the at least one tunnel.” Therefore, independent claim 1 and dependent claim 2, at least by reason of its dependency from claim 1, are allowable over Giniger, and the rejection of those claims under 35 U.S.C. §102(e) should be withdrawn for this additional reason.

Claim 33 recites a combination including, inter alia, “providing to the user code and other information for self-configuring a first processor; executing the code on the first processor to self-configure the first processor based on the provided other information; and establishing communication over the base network … when the at least one site determines that the self-configured first and second processors mutually consent to enabling the at least one tunnel.” For at least the reasons given above with respect to claim 1, Giniger fails to disclose at least these steps. Therefore, independent claim 33 and dependent claim 49, at least by reason of its dependency from claim 33, are allowable over Giniger, and the rejection of those claims under 35 U.S.C. §102(e) should be withdrawn for this additional reason.

(...continued)
should read “over claims 1-44 of co-pending U.S. Application No. 09/814,178.”

The Examiner provisionally rejected claims 1, 2, 33, and 49 under the judicially created doctrine of obviousness-type double patenting over claims 1-44 of copending U.S. Application No. 09/814,178. Applicants traverse this rejection.

Although disagreeing with the rejections, in an effort to advance prosecution, Applicants file a Terminal Disclaimer³ concurrently with this paper, obviating the obviousness-type double patenting rejections. Applicants request reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

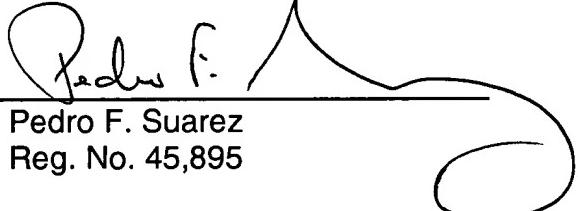
Respectfully submitted,

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Dated: July 21, 2005

By: _____

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³ Applicants point out that: “[t]he filing of a terminal disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection.” M.P.E.P. § 804.02(II), 8th Ed., Aug. 2001, p. 800-32 (citing *Quad Environmental Tech. Corp. v. Union Sanitary Dist.*, 946 F.2d 870 (Fed. Cir. 1991)). As M.P.E.P. § 804.02(II) indicates, “[t]he Court indicated that the ‘filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection.’” *Id.*